

# **EPA Review of the Bay Delta Conservation Plan Draft EIS**

# EPA Involvement

- Scoping Comments in 2008 & 2009
- Cooperating Agency in 2008
- 404/NEPA MOU Integration Attempt in 2010
- Purpose and Need comments in 2010
- Admin Draft EIS Comments in 2012 & 2013

# NEPA Rating Criteria

## Environmental Impact of the Action

- Lack of Objections
- Environmental Concerns
- Environmental Objections
- Environmentally Unsatisfactory

## Adequacy of the Draft EIS

- I – Adequate
- II – Insufficient Information
- III – Inadequate

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Adverse Rating

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graph LR; A[Environmentally Unsatisfactory] --> D[Adverse Rating]; B[III – Inadequate] --> D;
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# Rating the Environmental Impact of the Action

**EO (Environmental Objections)** The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative.

- Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
- Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
- Where there is a violation of an EPA policy declaration;

## **EU (Environmentally Unsatisfactory)**

- The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;

# Rating the Environmental Impact of the Action

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# Rating the Adequacy of the Impact Statement

**I – Adequate:** No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**II – Insufficient Information:** The draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the final EIS.

**III – Inadequate:** The draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS.

# Environmental Impact of the Action – Exceeding CWA Water Quality Standards

Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard

All Alternatives predicted to increase the number of days out of compliance with salinity water quality standards.

- A 17% increase in days out of compliance with the agricultural electrical conductivity standard at Emmaton.
- A doubling of the frequency of exceeding the municipal chloride standard at Antioch and Contra Costa Canal Pumping Plant #1



# Environmental Impact of the Action – Exceeding CWA Water Quality Standards

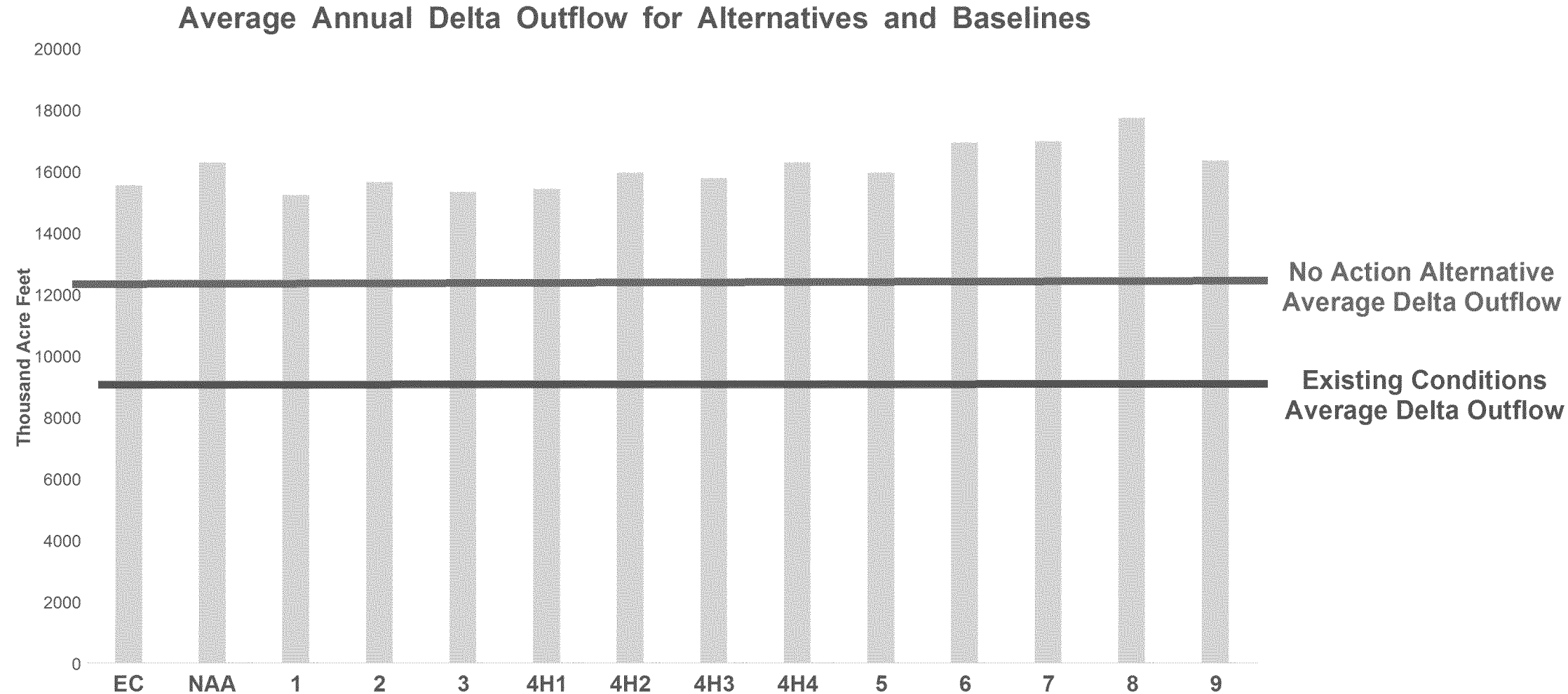
## Clean Water Act Water Quality Standard – Electrical Conductivity at Emmaton Compliance Point

Alternative	% Increase in days out of compliance relative to Existing Conditions Baseline	% Increase in days out of compliance relative to No Action Alternative Baseline
1	61	17
2	59	13
3	61	17
4 H1	59	13
4 H2	60	15
4 H3	60	14
4 H4	60	16
5	58	13
6	62	18
7	47	4
8	51	6
9	51	6

# Environmental Impact of the Action – Exceeding CWA Water Quality Standards

- Meeting Water Quality Standards appears to rely on relaxing Water Quality Standards
- Mitigation for water quality impacts is uncertain
- Increased methylmercury formation and transport

# Environmental Impact of the Action – Lack of Protection for Aquatic Life Beneficial Uses





# Environmental Impact of the Action – Insufficient Aquatic Life Beneficial Use Protection

Migratory Fish Species	NEPA Effects Determinations for Migration Analysis for CM1 Alternatives								
	1	2	3	4	5	6	7	8	9
Winter-run	A	A	A	ND	ND	ND	ND	A	NA
Spring-run	A	A	ND	ND	ND	ND	ND	A	NA
Fall-run/LFR	A	A	A	ND	A	ND	ND	A	NA
Steelhead	A	A	ND	ND	ND	ND	ND	A	NA
Green Sturgeon	A	A	A	ND	ND	ND	A	A	NA
White Sturgeon	ND	ND	ND	ND	ND	ND	ND	A	NA

A = adverse impact, NA = not adverse impact, ND = not determined impact, B = beneficial



# Environmental Impact Summary

- Water quality standards violations are predicted for all alternatives.
- Aquatic life beneficial uses are not protected by any of the alternatives.

# Inadequacy of the Document

- Inconsistency among alternatives
- Conclusions often not supported by the data
- Methods undisclosed

A = adverse impact, NA = not adverse impact,  
ND = not determined impact, B = Beneficial

Alternative	WR Entrainment NEPA Effects Determination	% Change Entrainment WR relative to NAA
1	B	- 60
2	B	- 68
3	B	-22
4 H3	NA	-52
5	NA	-9
6	B	Eliminated
7	NA	-82
8	NA	-82
9	B	No numeric estimate

# Inadequacy of the Document

- The project evaluated in the DEIS does not reflect current proposal
- The DEIS does not support project-level decision-making
- Scope of impact analysis is limited
- Efficacy of restoration overly optimistic

# Inadequacy of the Document – Alternatives

- The DEIS does not present the Alternatives in a clear, comparative manner
- Alternatives were not comparably analyzed
- Integrated Water Management Alternatives were not adequately evaluated

# Issues to be Addressed in the Supplemental

- The proposed project should meet all water quality standards and support improvement in species protection
- Incorporate integrated water management elements into operational alternatives
- Support DEIS conclusions with technical analyses
- Evaluate the current project proposal in the supplemental EIS
- Extend scope of project area upstream and downstream